



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

June 10, 2008

REGISTERED MAIL
RB 252 945 620 US

Washington State Parks and Recreation Commission
Southwest Region
ATTN: Ms. Kelli Burke
11838 Tilley Road S
Olympia, WA 98512-9167

RE: Water Quality Certification Order No. **5602** for Corps Public Notice No. NWS-2007-1842-SO for Phase 2 of the Bottle Beach State Park Interpretive Trail Development, Grays Harbor County, Washington.

Dear Ms. Burke:

On August 6, 2007, Washington State Parks and Recreation Commission, submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the above referenced project. The project proposes to improve access and develop day use recreational facilities as part of the Phase 2 Bottle Beach State Park Interpretive Trail Development. The U.S. Army Corps of Engineers issued a public notice on March 25, 2008, for the proposed project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

On March 26, 2008, the Washington State Parks and Recreation Commission, submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the applicant's determination that the proposed work is consistent with Washington's CZMP. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the CZMP, including Section 401 of the Federal Water Pollution Control Act.



If you have any questions, please contact Lori Ochoa at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry J. Lund", with a large, sweeping flourish extending to the right.

Perry J. Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

PJL:LO:dn
Enclosure

cc: Jim Green, U.S. Army Corps of Engineers
Jane Hewitt, Grays Harbor County
Bryan Doull
Gary Bell, WDFW

e-cc: Lori Ochoa, Ecology SWRO SEA
Penny Keys, Ecology HQ
Loree' Randall, Ecology HQ
Rick Mraz, Ecology SWRO SEA
Deborah Cornett, Ecology SWRO WQ

IN THE MATTER OF GRANTING A)	ORDER # 5602
WATER QUALITY)	Corps Reference No. NWS-2007-1842-SO
CERTIFICATION TO)	To develop day-use recreational facilities at
Washington State Parks and)	Bottle Beach State Park, within Redman Slough
Recreation Commission)	and adjacent wetlands, off of Highway 105 South
in accordance with 33 U.S.C. 1341)	near Westport, Grays Harbor County,
(FWPCA § 401), RCW 90.48.120, RCW)	Washington.
90.48.260 and Chapter 173-201A WAC)	
)	

TO: Washington State Parks and Recreation Commission
 Southwest Regional Office
 ATTN: Kelli Burke
 11838 Tilley Road S.
 Olympia, Washington 98512-9167

On August 6, 2007, the Washington State Parks and Recreation Commission submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification to improve access and develop day use recreational facilities as part of the Phase 2, Bottle Beach State Park Interpretive Trail Development. A joint public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on March 25, 2008

The proposed work will include the construction of a new parking lot, vault toilet, wooden pin-foundation boardwalk, asphalt surfaced trail, gravel-surfaced trail, a pedestrian bridge, and three bird viewing platforms. The project is located off of Highway 105 South, near Westport, Grays Harbor County, Washington; NE quarter of Section 9, Township 16 North, Range 11 West, WRIA No. 22, Lower Chehalis Watershed

The project will permanently impact 0.84 acres of Category II, depressional wetlands. Additionally, approximately 1,200 cubic yards of old fill material will be excavated from Redman Slough to restore the historic channel width and increase flood storage capacity.

Unavoidable project impacts will be compensated for through the enhancement of approximately eight acres of depressional wetlands and restoration of approximately 0.25 acres of depression and riverine wetlands through the removal of approximately 1270 cubic yards of fill and subsequent vegetation enhancement between Redman Slough and the highway. All mitigation will occur on-site within Bottle Beach State Park.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 303, 306, and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and,
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean Washington State Parks and Recreation Commission and its agents, assignees, and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Coordinator, SEA Program, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. **5602** and Corps No. NWS-2007-1842- SO.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on August 6, 2007. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.

4. Within 30 days of receipt of an updated JARPA Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue a Section 404 permit.
6. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
7. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
10. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.
11. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
12. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

B. No Further Impairment of Existing Water Quality:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A- 210(1)(e). Furthermore, nothing in this certification shall absolve the Applicants from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

C. Timing:

1. This Order is valid until all compliance requirements in this document have been met

D. Notification Conditions:

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Southwest Regional Office Federal Permit Coordinator in writing at least three (3) days prior to the start of construction at the project site.
2. The Applicant shall provide written notification to Ecology's Southwest Regional Office Federal Permit Coordinator in writing within fourteen (14) days after completion of construction.

NOTE: These notifications shall include the Applicant's name, project name, Order No. 5602, Corps Reference No. NWS-2007-1842-SO, project location, contact and contact's phone number.

E. Construction, Equipment Staging and Maintenance:

Construction Conditions:

1. During construction, the Applicant shall comply with all stormwater requirements within the current NPDES Construction Stormwater General Permit issued for this project.
2. Erosion and sediment control devices (filter or silt fences, etc.) and other BMP's intended to trap sediment on-site shall be in place before starting project construction and shall be maintained throughout construction until the site is stabilized.
3. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts
4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state

5. All debris or deleterious material resulting from construction shall be properly contained and disposed of at an approved upland location so that it cannot enter waters of the state.
6. All work within the project limits shall be clearly marked/staked prior to construction. Clearing limits, travel corridors, and stockpile sites shall be clearly marked. Sensitive areas and buffers that are to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.
7. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in a confined area in order to prevent containment to waters of the state. Fueling areas will be provided with adequate spill containment. Fueling equipment and vehicles within 100 feet of state waters and wetlands is not allowed unless otherwise authorized by Ecology.
8. Appropriate Best Management Practices (BMP's) shall be implemented to minimize track-out during construction.
9. All excess excavated material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
10. Turbid water generated from construction activities, including turbid dewatering water, shall not be discharged directly into waters of the state. Clean dewatering water that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in state waters, banks, or vegetation.
11. Turbid water shall be routed to an upland location to allow removal of fine sediment and other contaminants.
12. Concrete process water shall not enter surface waters of the state. Uncured concrete and concrete by-products shall be completely sealed off and totally contained using sealed forms or other leak-proof containment systems, and not allowed to contaminate or enter surface waters.

Equipment Staging and Maintenance:

13. Staging area will be located a minimum of 50 feet and, where practical, 200 feet from waters of the state, including wetlands.
14. Fueling of equipment and vehicles shall not occur within 50 feet of waters of the state, including wetlands.
15. The Applicant shall establish a separate contained area for washing down vehicles and equipment, which does not have any possibility of draining to surface waters and wetlands. No wash water containing sediments, oils, grease, or other hazardous materials resulting from wash down of the work area, tools, and equipment including concrete

delivery trucks or other equipment used for concrete work shall not be discharged into state waters or storm drains.

16. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc. shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into waters of the state.

F. Wetland Mitigation Conditions:

1. Project mitigation shall be constructed and maintained as described in the *Bottle Beach State Park Interpretive Trail Development Wetland Delineation Report & Conceptual Wetland Mitigation Plan (Wetland Mitigation Plan)*, dated August 2007.
2. Compensatory mitigation shall include enhancement, in the form of exotic control, establishment of brush pile habitat features and vegetative plantings, of approximately eight acres of palustrine emergent wetland and buffer. Planting installation shall occur per Section 9.0 and Appendix A (sheet 4) of the above-referenced wetland mitigation plan.
3. Mitigation shall also include the removal of approximately 1270 cubic yards of fill between Redman Slough and the highway, with subsequent sediment stabilization and vegetation establishment in fill removal areas. All mitigation will take place on-site within Bottle Beach State Park.
4. Any changes to the *Wetland Mitigation Plan* must be approved in writing by Ecology.

Mitigation Construction:

5. Compensatory mitigation construction and installation shall occur prior to or concurrently with, project impacts to wetlands.
6. No materials shall be stockpiled within the wetlands or stream.
7. All excess excavated material from the mitigation site shall be disposed of per Section 9.0 of the wetland mitigation plan.
8. All earth areas that have been exposed or disturbed on the mitigation site shall be stabilized to prevent erosions by using mulch or an equivalent such as seeding with a suitable erosion control seed mix consisting of native, non-invasive plant species only.

Wetland Mitigation Monitoring and Maintenance:

9. Wetland mitigation monitoring and maintenance shall be implemented as described in the *Wetland Mitigation Plan*, dated August 2007.
10. All mitigation sites shall be monitored for a ten-year period following project construction. Additional monitoring of the mitigation area may be required by Ecology if wetland monitoring reveals that performance measures are not being met.
11. The property owner shall grant Ecology access to the mitigation areas for inspection during the ten year monitoring period or until mitigation success has been achieved.

12. The Applicant is responsible for achieving the mitigation "Performance Standards" outlined in the *Wetland Mitigation Plan*. The performance standards shall be met over the ten-year monitoring period. The final mitigated wetlands shall meet the Category II characteristics as described in the *Washington State Wetlands Rating System for Western Washington*, revised August 2004.
13. Contingency measures shall be implemented as identified in the *Wetland Mitigation Plan*. Prior to implementing any contingency measures, applicant will consult with permitting agencies.
14. Any changes to the monitoring requirements included in the mitigation plan must be approved in writing by Ecology before they are incorporated into the plan or implemented on the ground.
15. Natural Designation: The mitigation site shall remain a Natural Designation, per the Washington State Parks Land Classification System. Ecology shall be notified of any proposed change to the mitigation site's land classification.

Wetland Mitigation Reporting Conditions:

16. A detailed "As Built" report shall be prepared after construction showing any variances from the final mitigation plan. The "As-Built" shall be the baseline document used for all future monitoring of the mitigation project. It shall include but not be limited to:
 - comments from a wetland specialist present on site during mitigation construction;
 - name and contact information for the parties responsible for the mitigation site including the applicant, landowner, and wetland professional on site during construction;
 - important dates including:
 - when the development project's construction began; and,
 - the starting and completion dates of the construction of the compensatory mitigation project including grading and planting of the site.
 - final site plan showing site topography (both site plan view and typical sections) and clearly indicating the mitigation site boundary;
 - photographs of the area taken from permanent photo points which will be designated on the site plan;
 - the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting;
 - types of habitat features and their locations;
 - an analysis of any changes to the mitigation plan and any problems that occurred during construction; and,
 - demonstration that the mitigation areas have been successfully established.

Two copies of the "as-built" report and drawings shall be sent to Ecology's Southwest Regional Federal Permit Coordinator within 60 days of completing mitigation (including planting). "As-built" submittals shall reference Order No. **5602** and Corps No. NWS-2007-1842-SO.

If the mitigation construction is not completed within 12 months of the date of this Order, a written status report shall be submitted to Ecology's Southwest Regional Federal Permit Coordinator. Mitigation construction status reports shall continue to be submitted every 12 months until the construction is complete and the final "as-built" report is submitted.

17. Two copies of the mitigation monitoring reports shall be submitted to Ecology by December 31 of each monitoring year for years 1, 2, 3, 4, 5, 6, 7, and 10 and as further described in the Monitoring Plan Section of the *Wetland Mitigation Plan* dated August 2007.

G. Emergency/Contingency Measures:

1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project, and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - e. Immediately notify Ecology's Southwest Regional Spill Response Office at (360) 407-6300 and the Washington State Department of Fish and Wildlife of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.

- f. Submit a detailed written report to Ecology's Federal Permit Coordinator within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply

3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology's Southwest Regional Spill Response Office at 360 407-6300.

H. Appeal Process:

You have a right to appeal this Order To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10) "Date of receipt" is defined at RCW 43.21B 001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
PO Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

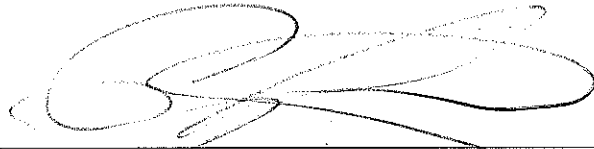
3. And send a copy of your appeal to:

Lori Ochoa
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

*For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>
To find laws and agency rules visit the Washington State Legislature Website:
<http://www1 leg.wa.gov/CodeReviser>*

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

DATED this 10 day of June, 2008, at Lacey, Washington.

A handwritten signature in black ink, appearing to read 'Perry J Lund', is written over a horizontal line.

Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Attachment # A

Washington State Parks and Recreation Commission, Southwest Region
Phase 2, Bottle Beach State Park Interpretive Trail Development
Water Quality Certification Order # **5602**
Statement of Understanding
Water Quality Certification Conditions

I, _____, state that, I will be involved as an agent or contractor for The Washington State Parks and Recreation Commission in the construction of Phase 2 of the Bottle Beach State Park Interpretive Trail Development, located within Redman Slough and adjacent wetlands, off of Highway 105 South near Westport in Grays Harbor County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order #**5602** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

